IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.371 of 1987

Indian Bank
having its head office at
31 Rajaji Road,
Madras 600 001
and one of its branch office
at Andheri ..Plaintiff

versus

1. Ramnath V. Shetty, prop. of
M/s. Savi Knitwear,
Shop No.12, Kamal Apartments,
Shankar Lane, Kandivali (W),
Bombay. and res. at
16, Sarvottam Co-op. Hsg. Soc. Ltd,
Near Irla Bridge,
Andheri (West), Bombay 58.

2. Satish Shetty,
res. at B-13, Neelkanth,
Evershine Nagar,
Malad (West), Bombay 400 064. .. Defendants

Mr.Ahmed Sayyed i/b. Pandya Gandhi & Co. for the Plaintiffs

Coram : S.R.Sathe, J.
Dated : 15th Dec., 2005

JUDGMENT (ORAL ORDER).

1. The plaintiff bank has filed this suit against the defendants for recovery of the amount of Rs.65,301.82 paise and future interest on the said amount at the rate of 15.5% per anum.

2. The plaintiff's case in brief is that on May

20, 1983 at the request of Defendants 1 and 2 medium term loan of Rs.20,000/- was guaranted to defendant no.1 and he executed necessary documents including demand promissory note, agreement of hypothecation, etc. The defendant no.2 stood a guarantor to defendant no.1 and executed deed of guarantee. On February 8, 1984 at the request of defendants the medium term loan was converted into open cash credit for Rs.20,000/-. In order to secure the said amount the defendants 1 and 2 executed necessary documents on March 21, 1985. The defendant no.1 agreed to repay the amount of Rs.20,000/- with interest thereon and accordingly executed demand promissory note. The defendant no.1 did not repay the amount as promised. On July 31, 1985 the defendants 1 and 2 acknoweldged that on June 30, 1986 amount of Rs.53,805.98p was due from them. Inspite of repeated demands the defendants did not clear the dues. Hence on March 20, 1986 the plaintiff issued notice through advocate to defendants and called upon them to pay the amount of Rs.56061.57p which was then due. Inspite of the receipt of notice the defendants did not clear the dues. On the contrary by letter dated July 31, 1985 the defendants had in fact prayed for instalments to clear the dues. As the defendants failed to clear the outstanding

amount, the plaintiff filed the present suit for recovery of Rs.65,301.82 paise and future interest thereon.

3. The defendant no.1 and 2 filed their joint written statement and admitted the execution of all the documents. Not only that but in para 9 of the written statement the defendant no.1 admitted he claim of the plaintiffs and prayed for proper verification of the accounts and prayed that the court may issue such direction and pass such order as may deem fit.

4. The plaintiff's witness Deepak Samant, Manager of plaintiff bank filed affidavit of evidence and produced the original documents. The witness has stated in his affidavit that the documents in question have been executed by the defendant and the plaintiff bank has maintained proper account of the transaction. He has also stated that the defendants executed necessary acknowledgment letter admitting their liability. Though repeated demands were made the defendants failed to clear the dues. All this evidence of the plaintiff has gone unchallenged. In fact, the defendants have admitted the execution of documents

and the suit claim and the decree can even be passsed on the basis of the said admission. The statement of account produced by the plaintiff clearly shows that the amount of Rs.65,301.82paise were due from the defendant on the date of filing of the suit. Thus, the plaintiff has proved the suit claim and the defendants are jointly and severally liable to pay the amount of Rs.65,301.82 paise. Hence the following order.

ORDER

1. The defendants 1 and 2 to pay plaintiff bank Rs.65,301.82 paise and future interst on the amount of Rs.20,000/- (amount under the cash credit granted and mentioned in D.P.Note) at the rate of 12% per anum from the date of the suit till realisation of the amount.

2. The defendants 1 and 2 to pay the plaintiff the cost of this suit and bear their own.

(S.R.Sathe, J.)

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Mr.Ahmed Sayyed i/b. Pandya Gandhi & Co. for the Plaintiffs

Coram : S.R.Sathe, J.
Dated : 15th Dec., 2005

Final Order:

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(S.R.Sathe, J.)